

## RESOLUTION NO. 02-02

### A RESOLUTION OF THE LOXAHATCHEE RIVER MANAGEMENT COORDINATING COUNCIL URGING DEVELOPMENT OF A RESTORATIVE MFL FOR THE PROTECTION AND ENHANCEMENT OF THE LOXAHATCHEE RIVER SYSTEM

WHEREAS, in 1983 Chapter 83-358 Section 4, Florida Statute (FS) designated portions of the Northwest Fork of the Loxahatchee River (the "River") as a State Wild and Scenic River specifically between River mile 6 and River mile 13.5 (Section 3) and includes the Legislative finding that it "...possesses outstandingly remarkable ecological, fish and wildlife, and recreational values..." "...which should be permanently preserved and enhanced..." (Section 2); and

WHEREAS, Chapter 83-358 Section 3 (8) FS defines the "River area" as "...that portion of the River from River mile 6 to River mile 13.5 together with such abutting uplands as determined in the permanent management plan," "...which may be necessary to maintain the natural and scenic appeal of the River."; and

WHEREAS, the South Florida Water Management District (the "SFWMD") and the Department of Environmental Protection ("DEP") were mandated by Chapter 83-358 Section 5(1) FS to develop a Plan consistent with the National Wild and Scenic Rivers System, and in accordance with Public Law 90-542, Section 10(a) of the Wild and Scenic Rivers Act which states a non-degradation and enhancement policy for all designated River areas; and

WHEREAS, the Loxahatchee Management Coordinating Council (the "Council") was established pursuant to said FS Chapter 83-358 for the purpose of participating in the development of a Loxahatchee River Management Plan (the "Plan") for, and in accordance with the Loxahatchee River Wild and Scenic Designation and Preservation Act; and

WHEREAS, the Council has reviewed the draft Minimum Flow and Level ("MFL") proposal and finds that it does not accomplish the intent of Chapter 83-358 Section 2 stating that, "It is the intention of Legislature to provide for the permanent preservation of the designated segment of the Loxahatchee River"; and

WHEREAS, in accordance with the Plan, the SFWMD adopted December 2002 as the date for establishing a MFL for the Loxahatchee River system, and the members of this Council have concluded that this would not allow time for determination of the minimum flow needed to achieve the objective in the Plan for River enhancement, or the objective stated in the Comprehensive Everglades Restoration Plan for ecosystem restoration; and

WHEREAS, the proposed minimum flow to the River addresses "the remaining floodplain swamp community" up to River mile 9.2, but it is the Council's determination that this is inadequate, and will not protect, maintain, nor restore conditions below River mile 9.2 which existed at the time Chapter 83-358 was adopted, as it has been widely recognized for several decades that the current dry season flows to the Loxahatchee River are insufficient and damaging to the ecology of the River, and

WHEREAS, since the passage of Chapter 83-358 in 1983 more than nineteen years have lapsed without minimum flows being adopted for the River in accordance with the Plan, and in the absence of the development of MFL criteria the River continues to decline, it shall be a priority of both the SFWMD and DEP to develop minimum flow criteria; and

WHEREAS, recognition of this damage has resulted in development of preliminary plans for a series of projects proposed under the US Army Corps of Engineers' ("COE") Critical Project List, the Comprehensive Everglades Restoration Plan, the Northern Palm Beach County Comprehensive Water Management Plan ("NPBCWMP"), and the Lower East Coast Regional Water Supply Plan for increasing dry season deliveries for the River and other parts of the natural system and water supply;

NOW, THEREFORE, BE IT RESOLVED by the Loxahatchee River Management Coordinating Council as follows:

1. The SFWMD should work closely with, and offer all possible assistance to the DEP in their effort to develop a plan for enhancement of the River.
2. If the SFWMD adopts a MFL of 35 cfs for the River in December 2002 as currently proposed, as noted above, such plan only protects the remaining and existing healthy cypress swamp community, and such proposal will not completely recover, nor significantly enhance already stressed areas of the River, and will have a substantial adverse impact upon the resource values in the River area, and that any proposal if adopted shall clearly acknowledge that the adopted MFL is an interim MFL.
3. The SFWMD and the COE should include the enhancement of the River as an objective in the Northern Palm Beach Comprehensive Everglades Restoration Plan ("NPB-CERP") and include as a temporary value in that planning process a MFL of at least 65 cfs (NPBCWMP, p. 5), until a specific number is developed through joint research with the DEP River enhancement planning effort.
4. During the development of the Project Implementation Report (PIR) for the NPB-CERP, the SFWMD and the COE shall ensure the entire River watershed is considered in the planning process including those sub-basins located in Martin County as well as Palm Beach County, as was mandated in Chapter 83-358.

5. The SFWMD and the COE shall ensure that during the development of the PIR for the NPB-CERP, project components are considered for construction in all areas of the watershed that will provide additional water and are sized to be able to meet the River's needs in consideration of, and in coordination with the DEP River enhancement planning effort.

6. The SFWMD, COE and DEP should ensure that as River enhancement objectives are identified, a modified MFL will be adopted that, in conjunction with the environmental water reservation that the Water Resources Development Act of 2000 requires to be developed and included in the NPB-CERP PIR, shall:

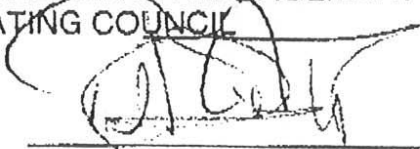
A. reflect seasonal variations, protects non-consumptive uses such as recreation, and fish and wildlife utilization of the Loxahatchee River ecosystem including both freshwater and estuarine portions; and

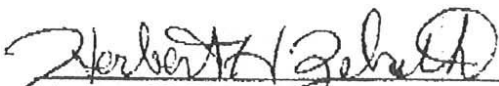
B. maintain conditions that provide for the propagation of cypress trees and a complete natural forested floodplain understory and animal community, and protects and enhances a healthy estuarine natural community.

7. In consideration of the above six items, this Council recommends that a coordinated effort shall be undertaken by both the SFWMD and the DEP to adopt a restorative MFL. Both agencies shall agree to and determine the location of a mile marker within the River to which design of allowable dry season salinity intrusion will be acceptable. Such location shall be between mile marker 6 and Kitching Creek, after which a restoration plan shall be prepared in conjunction with other agencies and completed not later than twelve months from adoption of this resolution.

RESOLVED AND ADOPTED this 29<sup>th</sup> day of July 2002.

LOXAHATCHEE RIVER MANAGEMENT  
COORDINATING COUNCIL

  
Richard Dent, Chairman

  
Herbert H. Zebuth, Secretary

Attest:   
Kathy LaMartina, SFWMD Staff